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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,097	02/12/2002	Carl L. Barcock	84571 2865 KAW	3688

20736 7590 10/02/2003

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EXAMINER	
KRAMER, DEVON C	
ART UNIT	**PAPER NUMBER**
3683	

DATE MAILED: 10/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/073,097	BARCOCK ET AL.	
	Examiner	Art Unit	
	Devon C Kramer	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 August 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

4a) Of the above claim(s) *2-8 and 12-32* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 9-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2) Claims 1 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al (JP 11217891).

In reference to claims 1 and 9-10, Kobayashi et al provides a friction vibration damper for damping the vibrations of a vibrating component comprising: a body (1) defining a chamber and a plurality of elements (5); the chamber is partially filled with the plurality of particles; the damper is disposed on or in the vibrating component and characterized in that the friction vibration damper is configured to substantially prevent the elements from operationally moving in a convection-like flow pattern. Please note that the division element or baffle (3) prevents the elements from moving in a convection like flow pattern because it limits the extent.

Kobayashi et al lacks the specific teaching of the particles filling 90% of the chamber.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have filled the damping device of Kobayashi et al 90% full with particles merely because it has been held that discovering an optimum value of a result effective

variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)

3) Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jeram (4011929).

In reference to claim 1, Jeram provides a friction vibration damper for damping the vibrations of a vibrating component comprising: a body (2) defining a chamber and a plurality of elements (10); the body defining the chamber which is partially filled with the plurality of elements; the damper disposed on or in the vibrating component characterized in that the friction vibration damper is configured to substantially prevent the elements from operationally moving in a convection-like flow pattern. Please note that the particles of Jeram are prevented from moving in a convection like pattern because of the motion of the piston and rod. The piston and rod are what cause the particles to move. Please note that this reference was used to indicate the broadness of applicants claim.

Jeram et al lacks the specific teaching of the particles filling 90% of the chamber.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have filled the damping device of Jeram et al 90% full with particles merely because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)

4) Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (6298963).

In reference to claim 1, Kim provides a friction vibration damper for damping the vibrations of a vibrating component comprising: a body (35) defining a chamber and a plurality of elements (30); the body defining the chamber which is partially filled with the plurality of elements; the damper disposed on or in the vibrating component characterized in that the friction vibration damper is configured to substantially prevent the elements from operationally moving in a convection-like flow pattern. Please note that the particles of Kim are prevented from moving in a convection like pattern because the particles extensively fill the free space in the damper and therefor are limited in the amount the particles can move.

Kim lacks the specific teaching of the particles filling 90% of the chamber.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have filled the damping device of Kim 90% full with particles merely because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)

CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

Claim Rejections - 35 USC § 103

5) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6) Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al.

Kobayashi et al is silent to the material used for the baffle.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the baffle of Kobayashi with a mesh structure in order to reduce the overall weight of the structure while still ensuring functionality of the baffles.

Response to Arguments

7) Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. Please note that the walls of Kobayashi (referred to as Kay in applicants arguments) have to substantially reduce the occurrence of convection currents within the device.

Conclusion

8) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C Kramer whose telephone number is 703-305-0839. The examiner can normally be reached on Mon-Fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3519 for regular communications and 703-308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

DK
September 29, 2003